

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA)

v.)

COLLEEN FORDHAM,)

Case No. 1:21-cr-00041-JL

PARTIALLY ASSENTED-TO MOTION TO AMEND
ORDER SETTING CONDITIONS OF RELEASE

NOW COMES, Defendant, Colleen Fordham, by and through her counsel, Peter D. Anderson, Esquire of McLane Middleton, Professional Association, and hereby requests that this court Modify the Order Setting Conditions of Release. In support of this motion, Counsel for Defendant states as follows:

1. Ms. Fordham is charged with one count of Conspiracy to Operate Unlicensed Money Transmitting Business, one count of Conspiracy to Commit Wire Fraud, and one count of Wire Fraud.

2. The Court issued an Order Setting Conditions of Release on March 16, 2021.

3. Part of Ms. Fordham's conditions of release prohibit her from having any contact with the co-defendants in this matter.

4. Ms. Fordham and her spouse operate a business called Mighty Moose Mart. Their business is located in Keene, New Hampshire, in a building which is owned by c-defendant Freeman. Ms. Fordham is a tenant of Mr. Freeman. As such, Mr. Freeman may have reason to come into the business on occasion.

5. Aria DiMezzo is also a co-defendant in this matter. Ms. DiMezzo lives next door to the shop and has been a long time, valued customer of Mighty Moose Mart. Ms. Fordham and Ms. DiMezzo are prohibited from having any contact or speaking with one another under the

terms Order Setting Conditions of Release. Ms. Fordham is currently having Ms. DiMezzo's orders delivered to her or making arrangements for Ms. DiMezzo to come into the shop after Ms. Fordham has left for the day. Making these arrangements are burdensome for Ms. Fordham. As a small business owner, Ms. Fordham needs to run her business as efficiently as possible in order for her business to thrive.

6. Ms. Fordham is requesting that the conditions of her release be amended to permit her to leave the shop and enter her office, located on the premises, if and when Mr. Freeman and/or Ms. DiMezzo are present in the shop. Under the present order, she is prohibited from ever being in the shop if a co-defendant is present. Also, she requests that she be permitted to discuss landlord/tenant issues with Mr. Freeman should the need arise. Ms. Fordham will not discuss the case or anything related to the case with either Mr. Freeman or Ms. DiMezzo.

7. Condition 7(n) of Ms. Fordham's Order Setting Conditions of Bail prohibits her from the use of any of alcohol whatsoever. Although Ms. Fordham candidly disclosed to the Supervising Officer that she attended a rehabilitation program approximately 10 years ago, Ms. Fordham currently has no issue with alcohol or substance abuse and intoxication is not an element of her charges or related in any way to the conduct charged in this case. In the course of operating her business successfully, Ms. Fordham would like the opportunity to sample new products from vendors in order to evaluate whether said products are something she would like to sell in her shop. She would also like to have an occasional glass of wine with dinner. Defendant requests that the court amend this provision to state that she refrain from the excessive use of alcohol, consistent with her co-defendants' provisions.

8. Condition 8(a) of Ms. Fordham's Order Setting Conditions of Bail prohibits her from the use of, among other things, any internet capable device unless preapproved by her

supervising officer. Ms. Fordham's supervising officer has allowed Ms. Fordham the use a flip phone, at an additional cost to Ms. Fordham, and requires Ms. Fordham to provide her with a list of websites she visits during the course of operating her business.

9. As a small business owner, Ms. Fordham cannot run her business successfully without access to email in order to communicate with vendors and without access to the internet to research new products. Ms. Fordham is not asking for unfettered access to the internet, instead, she is asking that this provision be amended to permit her to have reasonable use of the internet for the purpose of running her business.

10. Additionally, Ms. Fordham is unable to remotely monitor her shop, activate or deactivate the alarm system, or modify the air conditioning or heating system for her shop with the flip phone that she has been instructed to use. For these reasons, Ms. Fordham is asking that she be permitted to use her smartphone and discontinue use of the flip phone, which is an added cost to her. Ms. Fordham is fully aware that the provisions restricting her from the use of digital currency websites and/or wallets are still in effect and she is not attempting to amend or eliminate these restrictions.

11. In United States v. Perazza-Mercado, 553 F. 3d 65, 69 (1st Cir. 2009), the court held that special conditions must cause "no greater deprivation of liberty than is reasonably necessary" to achieve the goals of supervised release, taking into account the "nature and circumstances of the offense and the history and characteristics of the defendant."

12. United States Attorney Seth Aframe has been contacted and assents to the relief requested herein.

13. Supervising Officer Jacquelyne Santullo has been contacted and assents to the relief requested herein with the exception of the relief requested in Paragraph 7 above.

WHEREFORE, Counsel for Defendant hereby requests that the conditions of Ms. Fordham's release be modified as follows:

- A. Permit responsible and not excessive consumption of alcohol;
- B. Permit Ms. Fordham to be on her business premises, but in a separate room, as co-defendants Freeman and DiMezzo;
- C. Converse with co-defendant Freeman, if necessary regarding landlord/tenant issue; and
- D. Permit internet access and the use of a smartphone for the purposes of operating her small business.

Respectfully submitted,

COLLEEN FORDHAM

By Her Attorneys,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: August 6, 2021

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Certificate of Service

On this 6th day of August, 2021, I, Peter D. Anderson, Esquire, hereby certify that a copy of the foregoing Assented to Motion to Modify Order Setting Conditions of Release was hereby served, via Electric Case Filing system upon all parties of record.

/s/ Peter D. Anderson
Peter D. Anderson